

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
SEPTEMBER 12, 2013**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Angelo Colasante, Chair; Jeffrey Cohen, Vice Chair; Carol Amick, Clerk; Jeffrey Dearing; Todd Crowley; Michelle Puntillo

ABSENT: Donald Drouin

Mr. Colasante introduced himself and read the emergency evacuation notice. The Zoning Board of Appeals (ZBA) members and ZBA assistant introduced themselves.

PRESENTATION: Mr. Cohen, Acting Clerk, read the notice of the hearing.

PETITION #002-14 – SignArt, for Brookline Bank, at 168 Great Road, seeks a Special Permit per Article 39.4 Section 3(A)(1) of the Sign By-Law to allow two (2) or more wall signs.

Stephen Young, the representative for Brookline Bank, introduced himself and introduced Andrew Layman, the sign manufacturer from SignArt. Mr. Young said that Brookline Bank recently replaced its sign on the front of the shopping plaza at 168 Great Road to incorporate the bank's new logo, and the company now hoped to replace the sign on the inside strip of the plaza, since the bank fronts on two sides of the building.

The Board talked with the applicants about the aesthetics and size of the sign.

Mr. Cohen asked whether any new lighting fixtures would be added to illuminate the sign. Mr. Young responded that there would not be any new fixtures added, and the sign would only be lit by an existing fixture that ran along the entire roof fascia of the plaza.

Mr. Cohen asked the applicants to describe the sign. Mr. Layman stated that the sign was made of an aluminum backing with high density foam letters, painted and applied to the background. He noted that the background was one inch deep and the letters were two inches deep.

Mr. Cohen asked the applicant about the dimensions of the first floor wall area of the business. Mr. Layman replied that the wall area was 16'x50'. Mr. Cohen noted that the Sign By-Law allowed the Board to grant a sign whose square footage was up to 20% of the first floor wall area of the business, and this sign was well under that size.

Mr. Colasante opened the hearing to the public.

With no comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante said that the proposed sign blended in nicely with the other signs at the plaza. He said that the proposal fell within what the Board can allow under the Sign By-Law, and he felt comfortable granting the proposal.

Mr. Cohen said that he felt that application met the two requirements of a Special Permit, in that it was in keeping with the intent and purpose of the By-Law and was not injurious or detrimental to the neighborhood. He stated that he felt would vote in favor of the sign. The other Board members agreed.

Mr. Colasante asked the other Board members whether they wanted to put a condition on the Special Permit regarding sign illumination. Mr. Cohen said that sign illumination was not before the Board for this application, so he felt uncomfortable placing any conditions on the permit regarding it; he added that, if new illumination were proposed in the future, the applicants would have to return to the Board anyway.

MOTION:

Mr. Cohen moved to grant to Brookline Bank, at 168 Great Road, a Special Permit per Article 39.4 Section 3(A)(1) of the Sign By-Law to allow two wall signs, substantially as shown on Exhibit A, sheets 1 – 3 inclusive.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Cohen, Dearing, Crowley, and Puntillo

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Colasante explained that the Board had 14 days to write its decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds. Once the decision was recorded, the applicant may apply for a Sign Permit at the Code Enforcement Department.

PRESENTATION: Mr. Cohen, Acting Clerk, read the notice of the hearing.

PETITION #003-14 – Naomi Dogan and James West, for 4 Hayden Lane, seek a Special Use Permit per Section 5.1.5 of the Zoning By-Law for home occupation to allow clients to come to premises.

The applicants greeted the Board and introduced themselves. Ms. Dogan said that she had been working in Bedford for the last decade at the 200 Great Road center, where she had an office on the second floor. She said she was a psychologist and had a space in her home that she would like to use to see clients part-time, probably no more than about 10 to 20 clients per week. Ms. Dogan noted that she had received signatures from over ten neighbors who were in favor of such a home occupation use; she handed the petition to the Board.

Mr. Colasante asked about the applicant's proposed business hours. Ms. Dogan replied that she would like to be able to operate from 9:00 AM to 9:00 PM, Monday through Friday, but stressed that she would most likely only have clients on one or two of those nights per week.

Mr. Cohen asked the applicant to describe the business and clientele, without breaking any confidentiality of clients. Ms. Dogan said that the best way to respond to Mr. Cohen's question was by reading directly from her letter to the neighbors: "The types of clients...are a lot like all of us: They go through periods of experiencing relationship problems, feeling blue/depressed, having worries or anxiety, or negotiating transitions that affect family and career decisions, especially as families grow and change with the evolving needs of family members and aging parents." Ms. Dogan stressed that she has not had a patient hospitalized in over ten years, and does not see patients who would be a danger to the neighborhood; she added that she had young children in her house and obviously would not want to allow anyone into her house that could possibly be a danger to them.

Mr. Colasante said that, if one to four cars might park in the driveway in an hour, there was a potential for parking to become an issue.

Mr. Cohen asked how four cars could fit in the driveway. Ms. Dogan said that two cars could park behind two others; she added that 99% of the time, clients would arrive in one car.

Mr. Dearing asked whether there were any sidewalks on Ms. Dogan's side of the road. Ms. Dogan replied that there were no sidewalks on either side of the street.

Ms. Puntillo asked whether there were certain times of day when there were more clients. Ms. Dogan said there were not necessarily any times with considerably more or fewer clients.

Mr. Colasante said that the applicant has stated that she anticipated only seeing one 10 to 20 clients per week, but in her letter to the neighbors she wrote that she could see up to four people per hour. He asked her to explain how this was possible. Ms. Dogan explained that she worked part time and did not expect more than 20 clients a week, and most of them would arrive one at a time; she wrote "up to four people per hour" in her letter to the neighbors because there was an off-chance that she could have one couple

leaving and one couple arriving within the span of an hour, and she wanted to be honest about the maximum possible number.

Mr. Colasante said he was very worried about the number of cars that could be driving into and out of this property. Ms. Dogan stressed that a large part of her business took place off site – answering phone calls, doing paperwork, or attending clinical meetings with other clinicians; therefore, she really had no need for more than the 10 to 20 clients per week that she had mentioned.

Mr. Crowley noted that the plot plan showed an in-law apartment; he asked whether any in-laws lived at the house. Ms. Dogan replied that the original plan was to have her mother live at the house, but that never happened, so they only use that apartment if her mother visited for one or two week periods.

Mr. Colasante opened the hearing to the public.

Mr. Colasante read into the record a letter from a resident at 11 Hayden Lane (no name given) and another letter from James and Ann Clasby, signed and dated September 12, 2013 (see attached).

Ruth D'Ambra, of 62 Sweetwater Avenue, said she appreciated the applicant's desire to save money by operating her business from her home, but she shared the other neighbor's concerns. She said Hayden Lane was the center of a dangerous neighborhood, where visibility was bad and children and dogs were came and went often. She said she would love to support Ms. Dogan's business, but she thought the area was simply too dense. Mr. Colasante asked whether Ms. D'Ambra's concerns evolved strictly from the neighborhood density, or whether the type of clientele was a concern as well. Ms. D'Ambra said it was both, since the idea of psychiatric patients in the neighborhood was a bit worrisome, but it was mainly the density of the area.

Ms. Dogan asked whether the petition of over ten neighbors in favor of the project held as much sway with the Board as three homeowners against it. Mr. Cohen said that, speaking for himself, he always took neighborhood support or opposition into account but didn't let it drive his decision.

With no further comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante said that the Board was being asked to grant a Special Permit under Section 5.1.5 of the Zoning By-Law, and the two conditions of a Special Permit were that the project was in keeping with the intent and purpose of the By-Law and was not injurious or detrimental to the neighborhood. He stated that he thought it was in keeping with the spirit of the By-Law but was greatly concerned about whether it was injurious to the neighborhood. He said he wished the applicant had a more specific schedule, rather

than a broad “9:00 AM to 9:00 PM” schedule that allowed for extra traffic during morning and afternoon school rushes.

Mr. Cohen said he could not support this application, as the logistics of people coming and going was too much of a concern in this dense neighborhood with no sidewalks.

Mr. Dearing said he had driven on Hayden Lane many times, and it was a very small, busy neighborhood. He said he didn’t like to discourage any business owner in Town but also worried about the density of this neighborhood.

Mr. Crowley said this business was also a concern for him, not because of the clientele but because of the traffic and the density of the neighborhood.

Mr. Colasante said that the application as it stood would most likely not pass. He suggested that the applicants re-file a new application that laid out more specific plans for hours and parking, to help alleviate the neighbors’ and the Board’s concerns. He said that if the plan satisfied the neighbors, it might satisfy this Board, although he stressed that he could make no promises. Mr. Cohen said that the applicant could ask for a continuation, rather than having to re-file.

After further discussion, Ms. Dogan said she would like to continue to a future meeting and come back with a more specific plan. Mr. Colasante said that was probably best, but reiterated that he and the other Board members still had concerns about such a home occupation business in this neighborhood. He called for a motion to continue the hearing.

MOTION:

Mr. Cohen moved to continue Naomi Dogan and James West, for 4 Hayden Lane, seeking a Special Use Permit per Section 5.1.5 of the Zoning By-Law for home occupation to allow clients to come to premises, to October 10, 2013 at 7:30 PM.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Cohen, Dearing, Crowley, and Puntillo

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

PRESENTATION: Ms. Amick read the notice of the hearing.

PETITION #004-14 – Man Chiu Ho, for 17 Orchard Road, seeks a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to construct attached garage within side yard setback.

Mr. Ho greeted the Board and explained that he was requesting a Special Permit to construct a garage with an in-law apartment over it. He noted that the garage would not encroach any farther into the existing side yard setback than the current structure, but the addition would encroach about one foot into the front yard setback.

Mr. Colasante asked whether the house was currently two stories. Mr. Ho said that it was, and that this addition would carry the second story all the way across to be consistent with the rest of the structure.

Mr. Cohen said it appeared that the bump-out would encroach on the front yard setback by one foot, but would not push any closer to the side yard setback than the 13.5 feet. Mr. Ho said that was correct.

Ms. Puntillo asked the applicant whether his neighbors had been made aware of the project. Mr. Ho said he talked to his immediate abutters, and none of them had any problems with the application.

Mr. Colasante opened the hearing to the public.

Richard Axtell, owner of 8 and 10 Orchard Road, stated that he fully supported Mr. Ho's application.

With no further comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS:

Mr. Colasante noted that the requirements of a Special Permit were that the project was not injurious or detrimental to the neighborhood and was in keeping with the intent and purpose of the By-Law; he said he felt this application met both of those requirements, especially since the proposed garage extended any farther beyond the current non-conforming setback.

Mr. Dearing agreed, noting that the applicant had shown constraint in not extending the garage to the normal size of 24 feet, for the specific purpose of not moving farther into the setback.

Ms. Amick said she had no problem with the project; she noted that her only concern was that the lot was small, but the entire neighborhood was small and it included many such additions, so she didn't feel that this would be out of place.

Mr. Cohen, Mr. Crowley, and Ms. Puntillo all stated that they felt this project met the requirements of a Special Permit and all supported the application.

MOTION:

Mr. Cohen moved to grant Man Chiu Ho, for 17 Orchard Road, a Special Permit per Sections 7.1.2 and 7.1.4 of the Zoning By-Law to construct attached garage within side yard setback, substantially as shown on Exhibit A, proposed plot plan.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Cohen, Amick, Dearing, and Crowley

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

Mr. Colasante explained that the Board had 14 days to write its decision, after which time there was a 20-day appeal period. The applicant was then responsible for getting the decision recorded at the Registry of Deeds. Once the decision was recorded, the applicant may apply for a Building Permit at the Code Enforcement Department.

BUSINESS MEETING:

Mr. Colasante said it was time for the Board's annual election of officers. After discussion about volunteers for the positions of Vice Chair and Clerk, he asked for a nomination for Clerk.

MOTION:

Mr. Cohen moved to nominate Carol Amick as Clerk of the Zoning Board of Appeals.

Mr. Crowley seconded the motion.

Voting in favor: Colasante, Amick, Cohen, Dearing, Crowley, and Puntillo

Voting against: None

Abstained: None

The motion carried unanimously, 6-0-0.

MOTION:

Ms. Amick moved to nominate Jeffrey Cohen as Vice Chair of the Zoning Board of Appeals.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Amick, Cohen, Dearing, Crowley, and Puntillo

Voting against: None

Abstained: None

The motion carried unanimously, 6-0-0.

MOTION:

Ms. Amick moved to adjourn the meeting.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Amick, Cohen, Dearing, Crowley, and Puntillo

Voting against: None

Abstained: None

The motion carried unanimously, 6-0-0.

The meeting adjourned at 9:35 PM.

Angelo Colasante, Chair

Date

Respectfully Submitted,

Scott Gould
ZBA Assistant